

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

Sean Wilson,)	
	Petitioner,) No. 03-0281-CV-W-FJG
vs.) Crim. No. 02-0194-01-CR-W-FJG
United States of America,)	
	Defendant.)

ORDER

Petitioner pled guilty to a one-count information on July 17, 2002. A sentencing hearing was held on October 17, 2002, and judgment entered on October 21, 2002. Petitioner did not appeal his sentence. Thereafter, petitioner filed a motion to vacate pursuant to § 2255 on March 31, 2003. That motion was denied on November 25, 2003, and the motion for certificate of appealability was denied on February 6, 2004. The United States Court of Appeals for the Eighth Circuit denied petitioner's application for certificate of appealability and dismissed petitioner's appeal on September 13, 2004.

Now pending before this Court is defendant's motion for an order re-opening the order entered on November 25, 2003, denying petitioner's motion to vacate set aside or correct sentence by a person in federal custody (Doc. #18), filed June 13, 2005, and plaintiff's response (Doc. #21), filed July 19, 2005

Upon review of the pending motion and response, the Court concludes the defendant's reliance on United States v. Booker, 125 S. Ct. 738 (U.S. 2005) lacks merit for the reasons stated in plaintiff's response. Accordingly, defendant's request for an order re-opening the order entered on November 25, 2003, denying petitioner's motion to vacate set aside or correct sentence by a person in federal custody (Doc. #18), filed June 13, 2005, is denied.

/s/Fernando J. Gaitan, Jr.
Fernando J. Gaitan, Jr.
United States District Judge

Dated: August 23, 2005
Kansas City, Missouri